MONTANA LEGISLATIVE HISTORY

Chapter 569 19 99

Bill H 626 S _____ Original bill & history ✓ C

H. Committee on Fish + Game			S. Committee on Fish + Game		
Hearing Date(s)	3/9	✓ C	Hearing Date(s)	4/8	✓ C
	3/23	✓ C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ✓ No

Committee _____ Report _____

HB 625 Introduced by P. Bergsagel, et al. *LC1586 Drafter: MacMaster*

Provide for Family Impact Notes for Certain Bills Introduced in the Legislature and for Certain Proposed Administrative Rules;...

2/15	Introduced and 1st Reading		
2/15	Referred to State Administration		
2/15	Fiscal Note Requested		
2/17	Hearing		
2/18	Fiscal Note Received		
2/18	Fiscal Note Signed		
2/18	Fiscal Note Printed		
2/18	Committee Executive Action--Bill Passed	10	7
2/18	Committee Report--Bill Passed		
2/19	2nd Reading Passed as Amended	64	35
2/22	3rd Reading Passed	65	35
	Transmitted to Senate		
2/23	Referred to State Administration		
3/09	Hearing		
3/18	Committee Executive Action--Bill Concurred as Amended	5	0
3/18	Committee Report--Bill Concurred as Amended		
3/20	2nd Reading Concurred	29	11
3/22	3rd Reading Concurred	35	14
	Returned to House with Amendments		
4/10	2nd Reading Senate Amendments Concurred	94	6
4/12	3rd Reading Passed as Amended by Senate	60	38
4/12	Sent to Enrolling		
4/14	Returned from Enrolling		
4/14	Signed by Speaker		
4/14	Signed by President		
4/15	Transmitted to Governor		
4/19	Signed by Governor		
4/20	Chapter Number Assigned		
	Chapter Number 339		
	Effective Date: 4/19/1999 - All Sections		

HB 626 Introduced by Harper, et al. *LC0472 Drafter: Sternberg*

Reduce Potential Conflicts Between Recreational Users of Montana Waters by Revising Certain Laws on Motorboat and Personal Watercraft Operation;...

2/15	Introduced and 1st Reading		
2/15	Referred to Fish, Wildlife, and Parks		
3/09	Hearing		
3/24	Committee Executive Action--Bill Passed as Amended	13	7
3/24	Committee Report--Bill Passed as Amended		
3/27	2nd Reading Passed as Amended	57	42
3/30	3rd Reading Passed	63	36
	Transmitted to Senate		
3/30	Referred to Fish and Game		
4/08	Hearing		
4/09	Committee Executive Action--Bill Concurred as Amended	11	1
4/09	Committee Report--Bill Concurred as Amended		
4/13	2nd Reading Concurred as Amended	36	13
4/14	3rd Reading Concurred	34	16

	Returned to House with Amendments		
4/16	2nd Reading Senate Amendments Not Concurred	86	13
4/16	Conference Committee Appointed		
4/19	Conference Committee Report Received		
4/20	2nd Reading Conference Committee Report Adopted	70	26
4/21	3rd Reading Conference Committee Report Adopted	66	34
	Senate		
4/17	Conference Committee Appointed		
4/19	Conference Committee Report Received		
4/19	2nd Reading Conference Committee Report Adopted	35	15
4/20	3rd Reading Conference Committee Report Adopted	33	17
4/21	Sent to Enrolling		
4/22	Returned from Enrolling		
4/22	Signed by Speaker		
4/23	Signed by President		
4/26	Transmitted to Governor		
5/05	Signed by Governor		
5/07	Chapter Number Assigned		
	Chapter Number 569		
	Effective Date: 6/01/1999 - All Sections		

HB 627 Introduced by Hurdle *LC1463 Drafter: Niss*

Provide for Longevity Salary Increases for Full-Time Public Defenders;...

12/31	Fiscal Note Needed
2/15	Introduced and 1st Reading
2/15	Referred to Appropriations
3/08	Hearing
3/08	Fiscal Note Requested
3/08	Tabled in Committee
3/26	Missed Deadline for Appropriation Bill Transmittal
3/30	Fiscal Note Received
3/30	Fiscal Note Signed
3/30	Fiscal Note Printed

HB 628 Introduced by Haines, et al. *LC1604 Drafter: C. Erickson*

Allow Two School Districts to Jointly Appoint a Superintendent and to Retain Any Savings Resulting from the Joint Employment;...

2/15	Introduced and 1st Reading
2/15	Referred to Education
2/17	Bill Withdrawn
3/01	Missed Deadline for General Bill Transmittal

HB 629 Introduced by Mood *LC1461 Drafter: Kurtz*

Direct the Department of Fish, Wildlife, and Parks to Conduct a Comprehensive Study of Blackfoot River Use and Conflict and Report the Department's Findings and Conclusions to the 57th Legislature

2/15	Introduced and 1st Reading		
2/15	Referred to Fish, Wildlife, and Parks		
3/04	Hearing		
3/12	Committee Executive Action--Bill Passed as Amended	18	0

AN ACT REDUCING POTENTIAL CONFLICTS BETWEEN RECREATIONAL USERS OF MONTANA WATERS BY REVISING CERTAIN LAWS ON MOTORBOAT AND PERSONAL WATERCRAFT OPERATION; REVISING THE RESTRICTION ON OPERATION OF A VESSEL IN PROXIMITY TO AN ANGLER, WATERFOWL HUNTER, OR DIVER; DESIGNATING CERTAIN RIVER STRETCHES AS NO-WAKE ZONES; PROHIBITING THE USE OF PERSONAL WATERCRAFT ON DESIGNATED RIVER STRETCHES AND ON WATERS RESTRICTED BY RULE OF THE FISH, WILDLIFE, AND PARKS COMMISSION; ALLOWING THE FISH, WILDLIFE, AND PARKS COMMISSION TO ADOPT RULES FOR THE OPERATION OF PERSONAL WATERCRAFT AND THE RESOLUTION OF CONFLICTS BETWEEN USERS OF MOTORIZED AND NONMOTORIZED BOATS ON MONTANA WATERS; AND AMENDING SECTIONS 23-2-525, 23-2-531, AND 87-1-303, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Montana waters will experience a great increase in traffic by recreationists celebrating the bicentennial of the Lewis and Clark expedition and retracing the routes of the famous explorers; and

WHEREAS, the increased recreational use of Montana waters by every manner of recreationist, motorized as well as nonmotorized users, has led to a corresponding increase in conflicts between river users; and

WHEREAS, in other states, conflicts between recreational users of waters have escalated to the point of violence and even deaths of recreationists; and

WHEREAS, the use of personal watercraft has grown immensely in Montana, and the irresponsible use of personal watercraft conflicts with the ability of lakeshore cabin owners and homeowners to enjoy their pursuit of happiness through peaceful relaxation; and

WHEREAS, it is in the interests of public health, safety, welfare, and protection of property that measures be taken in Montana to reduce potential conflicts between recreational users of Montana waters before this state experiences similar problems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-2-525, MCA, is amended to read:

"**23-2-525. Restricted areas.** (1) ~~No~~ A person ~~shall so~~ may not anchor a vessel or other obstacle for fishing or pleasure purposes on any body of water over which the state has jurisdiction in ~~such~~ a position ~~as to obstruct~~ that obstructs a passageway ordinarily used by other vessels.

(2) ~~No~~ A person ~~shall~~ may not operate a pleasure vessel within 20 feet of the exterior boundary of a water area ~~which~~ that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. Swimming areas ~~shall~~ must be marked with white buoys having international orange markings in conformance with the uniform state waterway marking system by the owners of ~~such~~ the areas.

(3) ~~No~~ A person ~~shall~~ may not~~, without permission,~~ operate ~~or knowingly permit any person to operate~~ a vessel within ~~50~~ 75 feet of a person engaged in fishing or hunting waterfowl, unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed or at a minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in fishing or hunting waterfowl.

(4) (a) ~~No~~ A person ~~shall~~ may not purposely, knowingly, or negligently operate a motorboat upon the waters of this state within ~~100~~ 200 feet of a tow-float or buoy displaying a "diver-down" symbol, red with a white slash, on a flag.

(b) The motorboat may enter the ~~100-foot~~ 200-foot safety zone by use of sail or oar. In an emergency or if there is insufficient water on either side of the ~~100-foot~~ 200-foot safety zone to pass by and stay out of the zone, the operator may use power within the zone but may not exceed no-wake speed. The burden of proving that an emergency exists or that there is insufficient water is on the operator.

(c) The fish, wildlife, and parks commission may by rule determine areas where establishment of a ~~100-foot~~ 200-foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

Section 2. Section 23-2-531, MCA, is amended to read:

"**23-2-531. Personal watercraft operation.** In addition to applicable provisions in this part, a

person may not operate a personal watercraft:

(1) unless a person operating or riding on the vessel is wearing a United States coast guard approved type I, II, III, or V personal flotation device;

(2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless the lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for the specific vessel;

(3) (a) except as provided for standup personal watercraft in subsection (3)(b) or when towing a waterskier from or to a dock or shore, at greater than no-wake speed within ~~100~~ 200 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a lake or ~~within 50 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a river, except as provided in 23-2-525(4)~~ river; ~~or~~

(b) at greater than ~~minimum maneuvering speed for a standup~~ the minimum speed necessary to operate a personal watercraft when leaving or returning directly from or to a dock or shore for the purpose of launching or docking; or

(4) on any surface waters restricted in whole or in part by rule of the fish, wildlife, and parks commission;

(5) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless operation."

Section 3. Section 87-1-303, MCA, is amended to read:

"**87-1-303. Rules for use of lands and waters.** (1) The commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) The commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private

owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement."

Section 4. Designation of certain river stretches as no-wake waters -- personal watercraft use prohibited. (1) In the interest of public health, safety, welfare, and protection of property and public resources, the use of personal watercraft is prohibited on the headwaters of the Missouri River downstream to its confluence with Prewett Creek, except in Missouri River reservoirs, and including all tributaries but not their reservoirs.

(2) The waters from Hauser dam downstream to Beaver Creek are limited to a controlled no-wake speed.

(3) This section does not apply to the use of the designated waters for search and rescue, official patrol, or scientific purposes.

(4) This section may not be construed to limit the authority of the commission or department to enact by administrative rule or to enforce any other restrictions on any surface waters in the interests of public health, safety, welfare, or protection of property or public resources or the resolution of conflicts between users of motorized and nonmotorized boats.

Section 5. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 87, chapter 1, part 3, and the provisions of Title 87, chapter 1, part 3, apply to [section 4].

Section 6. Effective date. [This act] is effective June 1, 1999.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN DOUG WAGNER**, on March 9, 1999 at 3:25 P.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Doug Wagner, Chairman (R)
Rep. Daniel Fuchs, Vice Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. Gary Beck (D)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Tom Facey (D)
Rep. Gail Gutsche (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Joe McKenney (R)
Rep. Brad Molnar (R)
Rep. Bob Pavlovich (D)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Jim Shockley (R)
Rep. Roger Somerville (R)
Rep. Allan Walters (R)

Members Excused: None.

Members Absent: None.

Staff Present: Mikell Johnson, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s): HB 626; SB 329; SB 293; SB 381
Executive Action: NONE

HEARING ON HB 626

Opening Statement by Sponsor: Rep. Hal Harper
{Tape : 1; Side : A; Approx. Tape Counter : 17 - 153}

Proponents' Testimony:
John Kober, Montana Wildlife Federation
{Tape : 1; Side : A; Approx. Tape Counter : 176 - 192}

Dianne McDermand, Medicine River Canoe Club
{Tape : 1; Side : A; Approx. Tape Counter : 196 - 259}
EXHIBIT(1)

Steve Gilbert, Self
{Tape : 1; Side : A; Approx. Tape Counter : 260 - 274}

James Curtis, Self
{Tape : 1; Side : A; Approx. Tape Counter : 276 - 339}
EXHIBIT(2)

Lisa Bay, Self
{Tape : 1; Side : A; Approx. Tape Counter : 341 - 358}

Sanna Porte, Self
{Tape : 1; Side : A; Approx. Tape Counter : 359 - 391}

Paul Roos, Self
{Tape : 1; Side : A; Approx. Tape Counter : 393 - 419}

Pete Cardinal, Self
{Tape : 1; Side : A; Approx. Tape Counter : 420 - 468}

Jim Ahrens, Self
{Tape : 1; Side : A; Approx. Tape Counter : 470 - 499}

Jim McDermand, Russel Country Sportsmen Association
{Tape : 1; Side : B; Approx. Tape Counter : 500 - 529}
EXHIBIT(3)

Tim Plasca, Self
{Tape : 1; Side : B; Approx. Tape Counter : 531 - 542}

EXHIBIT(4)

Chris Strainer, Self
{Tape : 1; Side : B; Approx. Tape Counter : 543 - 560}

Beverly Magli, Self
{Tape : 1; Side : B; Approx. Tape Counter : 561 - 576}

Darrel Harris, Self
{Tape : 1; Side : B; Approx. Tape Counter : 577 - 594}

Robin Cunningham, Fishing Outfitters Association of Montana
{Tape : 1; Side : B; Approx. Tape Counter : 596 - 615}

Jerry Wells, Montana Trout Unlimited
{Tape : 1; Side : B; Approx. Tape Counter : 616 - 631}

Dick Fort, Self
{Tape : 1; Side : B; Approx. Tape Counter : 632 - 637}

Michael McNeilly, Lewis and Clark Expedition
{Tape : 1; Side : B; Approx. Tape Counter : 638 - 640}

Janet Ellis, Montana Audubon
{Tape : 1; Side : B; Approx. Tape Counter : 641 - 647}

John and Linda Winnie, Self EXHIBIT(5)

Opponents' Testimony:
Terry McFarlow, Self
{Tape : 1; Side : B; Approx. Tape Counter : 651 - 687}

Virgil Binkley, Broadwater Rod and Gun Club
{Tape : 1; Side : B; Approx. Tape Counter : 689 - 721}

Wilfred Olson, Ducks Unlimited, Broadwater Rod and Gun Club
{Tape : 1; Side : B; Approx. Tape Counter : 722 - 746}

Bill Tronson, Self
{Tape : 1; Side : B; Approx. Tape Counter : 747 - 782}

Tim Crowe, Self
{Tape : 1; Side : B; Approx. Tape Counter : 783 - 814}

EXHIBIT(6)

Gary Eppers, Self
{Tape : 1; Side : B; Approx. Tape Counter : 816 - 834}

Tim Johnson, One Way Marine
{Tape : 1; Side : B; Approx. Tape Counter : 835 - 869}

Neil Severinson, Self
{Tape : 1; Side : B; Approx. Tape Counter : 871 - 930}

Bob Spannagel, Self
{Tape : 1; Side : B; Approx. Tape Counter : 932 - 999}

John Mieyr, Self
{Tape : 2; Side : A; Approx. Tape Counter : 3 - 16}

Bill Fiegiel, Self
{Tape : 2; Side : A; Approx. Tape Counter : 17 - 36}
EXHIBIT(7)

Bill Henderson, Self
{Tape : 2; Side : A; Approx. Tape Counter : 37 - 52}

John Lawsen, Self
{Tape : 2; Side : A; Approx. Tape Counter : 53 - 63}

Jim Baker, Self
{Tape : 2; Side : A; Approx. Tape Counter : 64 - 74}

Mike Hilliard, Walley's Unlimited Great Falls Chapter
{Tape : 2; Side : A; Approx. Tape Counter : 75 - 96}

Bruce Calvin, Self
{Tape : 2; Side : A; Approx. Tape Counter : 97 - 102}

Larry Howlk, Self
{Tape : 2; Side : A; Approx. Tape Counter : 103 - 134}
EXHIBIT(8)
EXHIBIT(9)

Linus Wehri, Self EXHIBIT(10)

Terry Tronson, Self EXHIBIT(11)

Garve Gierke, Riverside Marine and Cycle EXHIBIT(12)

Linda Henderson, Montana Power Boaters Association EXHIBIT(13)

Yellowstone and Missouri Rivers Petition:
EXHIBIT(14)

EXHIBIT(15)

Joe Uzelac, Self
Dana Warner, Self
Jim Devlin, Self
Ray Scozzari, Self
Ken Emineth, Self
Sue Nance, Self
Kent Ferris, Self
Karen Hochhalter, Self
Mike Ablott, Self
Randy Replogle, Self
Shannon Kirkpatric, Self
Rick Nickels, Self
Mary Holzinger, Self
Maureen Thompson, Self
Larry Demetriades, Self
Tom Hudak, Self

EXHIBIT(16)

Blair Jones, Jones Law Firm
Rod Lee, Self
Barb, Self
Dan Neiter, Self
Jim Lowe, Self
Ron Ford, Self
Doug Breuer and Paul Orth, Townsend Electric
Wayne Rottrup, Self
Dave Crosmer, Self
Greg Harris, Self
Bill Henderson, Self
Roman Gillitzer, Self
Mark Vinner, Self
Ronald Junkert, Ron Junkert Construction
Daniel Sayer, Self
William Lowe, Self
D. Charleson, Self
Joe Abarr, Self
Todd Gainan, Self
Meg Laird, Self
John Wise, Self
Mike Philips, Self
Ed Allen, Allen's Tool Repair
Business Properties
Phil Madden, Self
Barb Grove, Self
David Odermann, SISR Enterprises, Inc.
Gerald and Kathy Barta, Self

Petition of Letters: EXHIBIT(17)

Jerry Rudio, Self **EXHIBIT(18)**
Guy Davidson, Self
Jim Wise, Self
Jerry Rudio, Self
Adam Schaff, Self
Ronald Mackney, Self
Willis Kukes, Self
Guy Raidiger, Self
Brett Bates, Petitions:
David Johnson, Self
Larry Lowman, Self
Randy Tuhy, Self

Robert Wise, Self **EXHIBIT(19)**

Ronald Ford, Self **EXHIBIT(20)**
Robert Lowe, Self
Steve and Judy Bayless
Don Klein, Self
Steve Monson, Self
James Pickens, Big Horn River Fin and Feather Lodge
Michael Smith and Patrick Connoly, Self

Chuck Gainan, Gainan's **EXHIBIT(21)**

Todd Gainan, Gainan's **EXHIBIT(22)**

Terry McArdle, Self **EXHIBIT(23)**

Petition Letters From: **EXHIBIT(24)**
- Dana Warner
- Ray Scozzari
- Sue Nance
- Tom Hudak
- Larry Demetriades
- Shannon Kirkpatric
- Randy Replogle
- Rick Nickels
- Maureen Thompson
- Karen Hochhalter
- Ann Beaudry
- Ken Emineth

Phone Calls Against: **EXHIBIT(25)**
- Tex Janecek
- Kurt Burris
- Chris Peterson
- Paul Ash
- Arlen Blumhagen
- Forest Ash

Rita Orr
Lee Ash
Jay Vermillion
Roger Holick
Andre Linwood
Mike Kloppel
Tom Putz
Richard Vaughn
Lee Ash
Larry Larsen
Steve Monson
John Welsh
Mark Vinner
Randy Tuhy

Phone Calls For: EXHIBIT(26)
Akra Halmer

Informational Testimony:
Pat Graham, Fish, Wildlife and Parks
{Tape : 2; Side : A; Approx. Tape Counter : 138 - 198}
EXHIBIT(27)

Questions from Committee Members and Responses:
{Tape : 2; Side : A; Approx. Tape Counter : 200 - 274}

Closing Statement by Sponsor: Rep. Hal Harper
{Tape : 2; Side : A; Approx. Tape Counter : 285 - 352}

HEARING ON SB 329

Opening Statement by Sponsor: Sen. Jon Ellingson
{Tape : 2; Side : A; Approx. Tape Counter : 374 - 586; Comments : continued on tape 2 side B}
EXHIBIT(28)

Proponents' Testimony:
Pat Graham, Fish, Wildlife and Parks
{Tape : 2; Side : B; Approx. Tape Counter : 591 - 633}
EXHIBIT(29)

Robin Cunningham, Outdoor Fisherman and Trout Unlimited
{Tape : 2; Side : B; Approx. Tape Counter : 634 - 641}

Diane McDermand, Medicine River Canoe Club
{Tape : 2; Side : B; Approx. Tape Counter : 642 - 649}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN DOUG WAGNER**, on March 23, 1999 at 3:10 P.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Doug Wagner, Chairman (R)
Rep. Daniel Fuchs, Vice Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. Gary Beck (D)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Tom Facey (D)
Rep. Gail Gutsche (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Joe McKenney (R)
Rep. Brad Molnar (R)
Rep. Bob Pavlovich (D)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Jim Shockley (R)
Rep. Roger Somerville (R)
Rep. Allan Walters (R)

Members Excused: None.

Members Absent: None.

Staff Present: Mikell Johnson, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Motion: REP. HARPER moved that HB 626 DO PASS.

EXHIBIT(2)

Motion/Vote: REP. HARPER moved that HB 626 BE AMENDED. Motion carried unanimously.

EXHIBIT(3)

Motion/Vote: REP. ANDERSON moved that HB 626 BE TABLED. Motion failed 9-11 with Anderson, Davies, Fuchs, Golie, Hanson, McKenney, Molnar, Rehbein, and Wagner voting aye.

Motion/Vote: REP. HARPER moved that HB 626 BE AMENDED. Motion carried unanimously.

EXHIBIT(4)

Motion/Vote: REP. HARPER moved that HB 626 DO PASS AS AMENDED. Motion carried 13-7 with Anderson, Fuchs, Golie, McKenney, Molnar, Rehbein, and Wagner voting no.

Motion: REP. RANEY moved that HB 647 DO PASS.

EXHIBIT(5)

Motion/Vote: REP. RANEY moved that HB 647 BE AMENDED. Motion carried unanimously.

EXHIBIT(6)

Motion/Vote: REP. RANEY moved that HB 647 BE AMENDED. Motion carried unanimously.

EXHIBIT(7)

Motion/Vote: REP. RANEY moved that HB 647 BE AMENDED. Motion carried 19-1 with Wagner voting no.

EXHIBIT(8)

Motion/Vote: REP. ANDERSON moved that HB 647 DO PASS AS AMENDED. Motion carried 14-6 with Fuchs, Hanson, Molnar, Pavlovich, Rehbein, and Shockley voting no.

Motion/Vote: REP. DAVIES moved to LIFT HB 389 OFF TABLE. Motion failed 10-10 with Beck, Davies, Erickson, Facey, Golie, Gutsche, Harper, Raney, Wagner, and Walters voting aye.

Motion/Vote: REP. HARPER moved to LIFT HB 341 OFF TABLE. Motion carried 15-5 with Anderson, Fuchs, Molnar, Wagner, and Walters voting no.

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **VICE CHAIRMAN MIKE TAYLOR**, on April 8, 1999 at 3:05 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Steve Doherty (D)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Chuck Swysgood (R)
Sen. Jack Wells (R)

Members Excused: Sen. Ken Mesaros, Chairman (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 647, 4/8/1999; HB 626, 4/8/1999; HB 341, 4/8/1999; HJR 33, 4/8/1999

Executive Action: HJR 33; HB 626; HB 647; HB 341

SENATOR MCCARTHY said they didn't need any money this session. She asked if they would need 1/2 million dollars in two years. **REPRESENTATIVE RANEY** replied they are taking the money from the fishermen license account. He said in two years they would need 1/2 million dollars a year which would come from the RIT. **SENATOR MCCARTHY** asked if it would continue indefinitely. **REPRESENTATIVE RANEY** said until another legislature changed it.

SENATOR BECK asked if the bill will sunset in the year 2009. **REPRESENTATIVE RANEY** replied yes.

SENATOR CRISMORE asked about page 5 where it discussed the commission money and the Highway Department. **REPRESENTATIVE RANEY** replied the other language in the bill was delicately put together by DOT. He commented on the meeting with DOT and their compromise on the language.

{Tape : 1; Side : A; Approx. Time Counter : 22}

Closing by Sponsor:

REPRESENTATIVE BOB RANEY, HD 22, Livingston, commented on articles from the *Montana* magazine on the Future Fisheries program and of the Bull Trout program. He asked if Montana wants to put the future of our economy in trusting the Federal Government will come forward and save the fish. He said we must do it. The answer to recover the fish is habitat.

SENATOR TAYLOR noted the MT Farm Bureau was a proponent of HB 647.

{Tape : 1; Side : A; Approx. Time Counter : 26.1}

HEARING ON HB 626

Sponsor: **REPRESENTATIVE HAL HARPER, HD 52, Helena**

Proponents: **Michael McNeilly, Lewis & Clark Expedition**
Bob Fitzgerald, Helena
Jim Errands, Helena
Robin Cunningham, MT River Action Network and Fishing Outfitters Association
Bill Orsello, MT Wildlife Federation

Pat Graham, Fish, Wildlife and Parks
Lisa Bay, Self
Dick Porte, Self
Janet Ellis, MT Audubon
Jerry Wells, MT Trout Unlimited

Opponents: **Clyde Drewney, Self**

Opening Statement by Sponsor:

REPRESENTATIVE HAL HARPER, HD 52, Helena said HB 626 deals with regulating operations of motor boats and jet skis. The bill comes from requests of constituents who have been deprived of use of their cabins on lakes. They want to use the bill as a proactive method to avoid some of the conflict between motor boats and jet ski operators and the public. He explained the intent of the bill. He said the bill will solve a number of problems and a number of conflicts before they happen.

{Tape : 1; Side : A; Approx. Time Counter : 35.7}

Proponents' Testimony:

Michael McNeilly, Lewis & Clark Expeditions, said the root of the problem has to do with a lack of common courtesy. He said if the jet skiers could attempt to slow down or go to an area more suitable for their purposes, there would be no need for the bill.

Bob Fitzgerald, Helena, said out-of-state fishers drive too far to come fishing to see the uncontrolled jet skiers. He also said the people who came back to Montana to live here also didn't move here to see it.

Jim Errands, Helena, said jet skis are unsafe and someone will be killed from the rocks in the Missouri River. He urged the committee's support for HB 626.

Robin Cunningham, MT River Action Network and Fishing Outfitters Association, said they were in support of HB 626 for the reasons already described.

Bill Orsello, MT Wildlife Federation, supported HB 626.

Pat Graham, Fish, Wildlife and Parks, entered written testimony, **EXHIBIT(6)** and proposed amendments, **EXHIBIT(7)**.

{Tape : 1; Side : B; Approx. Time Counter : 0}

Lisa Bay, Helena, said less than 5% of Americans own personal water craft but they are able to ruin a recreational experience for the rest of America. She urged for the passage of HB 626.

Dick Porte, Helena, provided written testimony, **EXHIBIT(8)**.

Janet Ellis, MT Audubon, entered a witness statement, **EXHIBIT(9)**.

Jerry Wells, MT Trout Unlimited, wanted to add their support to HB 626.

{Tape : 1; Side : B; Approx. Time Counter : 1.2}

Opponents' Testimony:

Clyde Drewney, Self, said the bill started out as a bad bill. It would have eliminated the use of motor boats for a hundred miles on the Missouri River. He said it is inappropriate for the Legislature to make the decisions on the speed of a boat for a particular stretch of river. He said it should be done through an administrative process in which the users of the river are notified of the action that is going to take place. He encouraged the committee not to legislate the speed of boats on particular stretches of a river but allow the FWP to do it through their administrative process.

{Tape : 1; Side : B; Approx. Time Counter : 2.2}

Questions from Committee Members and Responses:

SENATOR BECK asked what the reason was for amending the bill to restrict operating a vessel within 50 feet of a person engaged in fishing and hunting water fowl. **REPRESENTATIVE HARPER** replied Speaker Mercer told him 200 feet was too far for a motor boat and he was going to amend it to 50 feet. **SENATOR BECK** said the FWP had proposed an amendment to change it back to 200 feet. **REPRESENTATIVE HARPER** replied he knew Speaker Mercer lives on a lake and operates a boat. Speaker Mercer felt it was too far.

SENATOR BECK said if the restriction was 200 feet and someone was on a stream then the stream would have to be 400 feet wide. **REPRESENTATIVE HARPER** replied he was correct if the person was standing in the middle of the stream. He wanted to add the language which would make the motorist cut back the speed but could go on through. He commented on the current law.

SENATOR MCCARTHY asked if Representative Harper objected to the section from the FWP about the speed limit. **REPRESENTATIVE HARPER** replied he thought all of their amendments were fine. He commented about the opponent's testimony about the FWP being allowed to put out a notice and pass the law. He said don't put a speed limit in the bill just make sure the commission has the authority through the rule making process as the opponent said.

{Tape : 1; Side : B; Approx. Time Counter : 4.6}

Closing by Sponsor:

REPRESENTATIVE HAL HARPER, HD 52, Helena, hoped the bill covered some of the concerns which they had in a bill sponsored by Senator Ellingson.

{Tape : 1; Side : B; Approx. Time Counter : 5.2}

HEARING ON HB 341

Sponsor: **REPRESENTATIVE RALPH LENHART, HD 2, Glendive**

Proponents: **Rusty Harper, State Auditor's Office**
Joe Lamson, State Superintendent's Public Instruction
Amy Myran, Friends of Makoshika
Dena Hoff, Self
Gloria Paladichuk, City of Glendive
SENATOR RIC HOLDEN, SD 1, Glendive

Opponents: **Bud Clinch, Department of Natural Resource and Conservation**

{Tape : 1; Side : B; Approx. Time Counter : 36.4; Comments : Tape stopped and resumed at 4:36 pm.}

EXECUTIVE ACTION ON HJR 33

Motion/Vote: **SEN. DOHERTY** moved that **HJR 33 BE ADOPTED. Motion carried unanimously.**

{Tape : 2; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 626

Motion: **SEN. BECK** moved that **HB 626 BE CONCURRED IN.**

Motion: **SEN. CRISMORE** moved that **FWP's AMENDMENT BE ADOPTED.**

Discussion:

Leanne Kurtz explained the FWP's amendment. She asked Pat Graham if the amendment included the 200-foot safety zone. **Mr. Graham** clarified the explanation of the amendments. He said they were not recommending a 200 foot safety zone.

Substitute Motion: **SEN. BECK** made a substitute motion to **SEGREGATE #4, #5, AND #6 OF THE AMENDMENT.**

Discussion:

SENATOR BECK explained why he wanted to segregate #4, #5, and #6 from the amendment.

Vote: Motion **carried unanimously.**

SENATOR ELLINGSON said he sensed some reluctance on part of the committee to establish a speed limit. He suggested as a conceptional amendment that they authorize the Department of Fish, Wildlife and Parks to adopt rules and regulations which would regulate the speed on rivers.

Leanne Kurtz believed the commission could already do that under 871-303.

SENATOR EKEGREN asked how fast are jet skis capable of going. **SENATOR TAYLOR** replied he believed the can go up to 60 mph or even faster. **SENATOR EKEGREN** said it would seem reasonable to consider a speed limit.

SENATOR WELLS agreed with Leanne Kurtz that the commission can set the speed limit. He did not think one speed limit will be appropriate for all rivers.

SENATOR DOHERTY asked Bob Lane to clarify if the FWP could set speed limits on rivers. **Mr. Lane** replied they do have authority to regulate speeds on rivers but only for safety. He said that is a limitation on their authority. If they had full authority they would need some expression in 871-303 subsection 2.

SENATOR TAYLOR asked how would they enforce the speed limit on rivers. **Bob Lane** said they could enforce it. They would address each situation on a river by river basis.

SENATOR DOHERTY restated the FWP can only set speed limits for public safety but not to diminish the potential conflicts. He didn't know if Senator Ellingson's memo would be appropriate or whether they should give the commission additional authority. **Leanne Kurtz** said FWP mentioned public welfare and she thought that might do it. **Bob Lane** replied the general broad legal category to give authority to the agency would be in terms of public welfare. It would give the department the ability to address all of the issues.

<u>Substitute Motion/Vote</u>: **SEN. ELLINGSON** moved that **CONCEPTIONAL AMENDMENT WHICH GAVE THE FWP AUTHORITY TO ADOPT RULES AND REGULATIONS TO REGULATE SPEED ON RIVERS BE ADOPTED. Motion carried unanimously.**

SENATOR CRISMORE withdrew his motion.

SENATOR WELLS explained why would like to have a 100 foot operating distance.

<u>Substitute Motion/Vote</u>: **SEN. WELLS** made a substitute motion that **100 FOOT OPERATING DISTANCE ON PAGE 2, LINE 11 BE ADOPTED. Motion carried unanimously.**

Substitute Motion: **SEN. BISHOP** made a substitute motion that **STRIKE LINES 14, 15 AND 16 ON PAGE 4. BE AMENDED.**

Discussion:

SENATOR BISHOP explained why he would like the proposed amendment.

SENATOR ELLINGSON said the speed limit only applies to personal water craft. He spoke against the amendment because he had serious reservations about personal water craft being on any of Montana's rivers.

SENATOR TAYLOR asked if someone kills themselves in a jet ski accident, who do they sue. **Bob Lane** replied they would sue anybody they could. The state is often named in the suits. The department is not usually liable for those kind of accidents.

SENATOR BECK asked where Beaver Creek and Pruitt Creek was located. **Pat Graham** said Beaver Creek enters the Missouri River downstream from Hauser Dam. He said Pruitt Creek is located between Craig and Cascade.

Vote: Motion **failed 3-8 with Beck, Bishop and Ekegren voting aye.**

Motion/Vote: **SEN. BECK** moved that **HB 626 BE CONCURRED IN AS AMENDED. Motion carried 11-1 with Swysgood voting no.**

{Tape : 2; Side : A; Approx. Time Counter : 16.4}

EXECUTIVE ACTION ON HB 647

Motion: **SEN. MCCARTHY** moved that **HB 647 BE CONCURRED IN.**

Motion: **SEN. DOHERTY** moved that **FISH, WILDLIFE AND PARKS AMENDMENT #3 AND #4 BE ADOPTED.**

Discussion:

SENATOR BECK asked what the difference between recovery and enhancement. **Pat Graham** replied recovery is a term used in the